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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,379	01/30/2004	Paul E. Thomas	15838-292003	7898

7590 04/18/2006

Tredegar Film Products Corporation
1100 Boulders Parkway
Richmond, VA 23225

EXAMINER

WATKINS III, WILLIAM P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/769,379	THOMAS, PAUL E.	
	Examiner	Art Unit	
	William P. Watkins III	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2006.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-20 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 February 2006 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-2, 6-8, 12-14, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuji et al. (U.S. 6,090,089) in view of Murakami et al. (U.S. 5,268,213) and Sorensen (U.S. 4,327,730).

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Tsuji et al. teach the elevation of lands in the transverse direction of the sheet, which form liquid passageways, in order to prevent unpleasant contact with the skin (abstract, element 11, Figures 1-3). Murakami et al. teach the use of passageways formed by ridges in the longitudinal or machine direction of the top sheet in order to better diffuse bodily fluids (abstract, Figure 5, col. 1, line 65 through col. 2, line 5). Sorensen teaches the use of elevations that are at least from about 4 to 90 microns in height (col. 4, lines 45-55) to provide a pleasant feel against the skin (col. 4, lines 25-30). The instant invention claims a top sheet with raised lands in the machine or stroking direction that are 15 to 145 microns in height. It would have been obvious to one of ordinary skill in the art to have placed the ridges of Tsuji et al. in the machine direction to better control fluid flow because of the teachings of Murakami et al. and to have made them with a height of 4 to 90 microns in order to have a pleasant fabric feel against the skin because of the teachings of Sorensen. The combination of the references has a structure that is the same or similar to that taught in the instant specification as giving a Silky Tactile Impression Rating of about 5 or less (page 10, lines 5-15). It

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is thus taken as meeting the Silky Tactile Impression Rating limitation of the instant claims.

4. Claims 3-5, 9-11, 15-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuji et al. (U.S. 6,090,089) in view of Murakami et al. (U.S. 5,268,213) and Sorensen (U.S. 4,327,730) as applied to claims 1-2, 6-8, 12-14, 18-19 above, and further in view of Faelten (U.S. 2,304,632).

Faelten teaches the use of ridges or waves raised in a surface to provide an attractive finish and good skin contact (col. 2, lines 35-45). The instant invention claims ridges on a top sheet with raised machine direction lands. It would have been obvious to one of ordinary skill in the art to have placed small ridges on the top sheet of Tsuji et al. as modified above in order to enhance the appearance and skin contact because of the teachings of Faelten. The combination of the references has a structure that is the same or similar to that taught in the instant specification as giving a Silky Tactile Impression Rating of about 5 or less (page 10, lines 20-30). It is thus taken as meeting the Silky Tactile Impression Rating limitation of the instant claims.

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5. Applicant's arguments filed 03 February 2006 have been fully considered but they are not persuasive.

Applicant argues that the combination of the references does not teach a vacuum formed top sheet with apertures and in particular that Tsuji et al. teaches the formation of a three dimensional film top sheet with apertures by embossing instead vacuum film forming. The examiner is unclear how the structure produced by the embossing rollers of Tsuji et al. is different from that produced by the instant claimed vacuum forming limitation. Articles claims must be distinguished from the prior art based on their structure not the method of forming the structure (MPEP 2113).

Applicant then argues that the various references cannot be combined because Tsuji et al. and the secondary references all have different methods used to form their products and that using the various processes in sequence would destroy the previous formed structure. It is the position of the examiner that it is within the ordinary skill of the art to combine the structural features of the references without having to use each and every process taught in the references. In particular the examiner sees no reason why lands that run in the longitudinal direction as taught by Murakami et al. could not be made by the

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embossing process of Tsuji et al. which forms lands in the transverse direction. It would also appear that embossing can also make the raised nubbles of Sorensen. The argument that there is no expectation of success because the combination of the various processes would not work, and that therefore the rejection fails, is not well founded in view of the above analysis.

The motivations to combine the various references to achieve better fluid distribution and better feel of the film of the skin of the user are explicitly given in the rejections and have not been challenged, except that applicant argues that Murakami et al. does not distribute fluid to all portions of the top sheet but only to the end portions from the middle. Though the examiner may have more broadly stated the motivation as going to all portions instead of to the end regions, this still provides adequate motivation to use ribs that go in the longitudinal direction instead the transverse direction as in Tsuji et al. As noted previously, the stroking direction is defined as the longitudinal direction in the specification at page 8, lines 26-30. Applicant again argues that Tsuji et al. allows only transverse ribs. The position of the examiner remains as before that the teachings of the reference are

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broader than this and allow ribs for some of the taught advantages in any direction.

Regarding Sorensen and Faelten applicant argues that the references would not be combined by one of ordinary skill in the art with the others in the combinations of the rejections because they do not have holes for use as top sheets. The examiner disagrees that Sorensen does not teach apertures. Element 34 in Figure 3 is clearly a hole used to drain water in a top sheet. As both the ribs in Tsuji et al. and the nubbles in Sorensen are to enhance interaction with the user's skin, the examiner is unclear why the dimensions from one cannot be used in the other.

Regarding Faelten, applicant states that the examiner has given no reason as to why the function of the combination would not be destroyed if Faelten is combined. The examiner simply does not see how putting additional texture on the rib top surfaces of Tsuji et al. in view of Murakami et al. and Sorensen, to enhance the interaction of the rib surfaces with the skin of the user, would destroy the function of the references or otherwise be unworkable. Applicant seems to be arguing that the only way one of ordinary skill in the art would combine the references would be the bodily incorporation of each

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and every feature of each and every reference into a combined article and that this article would be unworkable. The examiner does not agree that the level of skill in the diaper top sheet art is so low that one of ordinary skill in the art could not move a specific feature from one reference to another reference when given a specific motivation to do so, without the entire bodily incorporation of all of the features of that reference.

6. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114.

Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action

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is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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WW/ww

April 15, 2006

A handwritten signature in black ink, appearing to read "William P. Watkins III". The signature is written in a cursive, flowing style.

**WILLIAM P. WATKINS III
PRIMARY EXAMINER**